

## Remarks

### Status of the Application

Prior to the filing of this paper, claims 47-69 were pending. The Office Action mailed October 6, 2010 rejected claims 47-65 and 67-69 under §103(a) as being unpatentable over US 2001/0006509 to Nguyen et al. (“Nguyen”), in view of US 7,054,376 to Rubinstain et al. (“Rubinstain”), and rejected claim 66 under §103(a) as being unpatentable over Nguyen, in view of Rubinstain and further in view of US 6,751,221 to Saito et al. (“Saito”).

This paper makes no claim amendments. No claims have been added or canceled. Hence, after entry of this paper, claims 47-69 will stand pending for examination. Claims 47, 58 and 62 are independent claims.

### Rejections under 35 U.S.C. § 103

#### **Claims 47-65 and 67-69**

Claims 47-65 and 67-69 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nguyen in view of Rubinstain. These rejections are respectfully traversed, because the Office Action has not demonstrated that the cited combination either teaches or suggests each element of any rejected claim. In particular, the combined references cited in support of the pending 35 U.S.C. §103 rejections do not reasonably show the following element of independent claims 47, 58 and 62:

*“a first of the plurality of distribution points is adapted to...*

*forward the high-speed packetized information directly to the host  
digital terminal distribution center without routing the high-speed  
packetized information through a central office;”*

(Claim 47 or 58, Claim 62 alternatively recites “without using a mobile switching center”)

The Office Action correctly notes at the second paragraph of page 4 that the Nguyen reference does not suggest this claim language. Therefore the Office Action relies upon Rubinstain in combination with Nguyen to teach the above elements. Applicant respectfully submits that reliance upon Rubinstain in combination with Nguyen is misplaced. In particular, the Office Action at page 4 states:

*“Rubinstain teaches a high data rate Ethernet transport facility over digital subscriber lines, comprising an optical network unit 152 connected to multiple customer premises via the 100BaseS transport facility utilizing 100BaseS modems 156 and 158 (plurality of distribution points). **The optical network unit also comprises a high speed switch for routing traffic between customer premises #1 and and customer premises #2 without accessing the PSTN (without routing the high-speed packetized information through a central office).** Referring to Figures 2 and 3, see column 9, line 66 to column 10, line 13.”*

Applicant respectfully submits that the conclusion emphasized above is not supported by the Rubinstain disclosure. Applicant acknowledges that the optical network unit 152 is connected to both premises #1 and premises #2, but there is no indication in Rubinstain that the switch 154 has the capacity to route a packet from residence #1 to residence #2. It is important to note that the claimed distribution points of Applicant's claims 47, 58 and 62 have both switching and routing capacity; see for example line 25, page 10 of the application as filed.

The portion of the Rubinstain disclosure cited by the Office Action is silent regarding even the possibility that the switch 154 could directly route a packet from premises #1 to premises #2. It may be noted from Fig. 3 (reproduced below) that although premises #1 and #2 are both connected to switch 154, the switch 154 is also optically connected to the central office 150. Based upon the balance of the Rubinstain disclosure as detailed below, Applicant submits that the switch 154 serves only to route packets from the various premises to the central office, not directly to each other. Thus, Rubinstain, like Nguyen, shows a system having non-distributed routing, as described in Applicant's background disclosure.

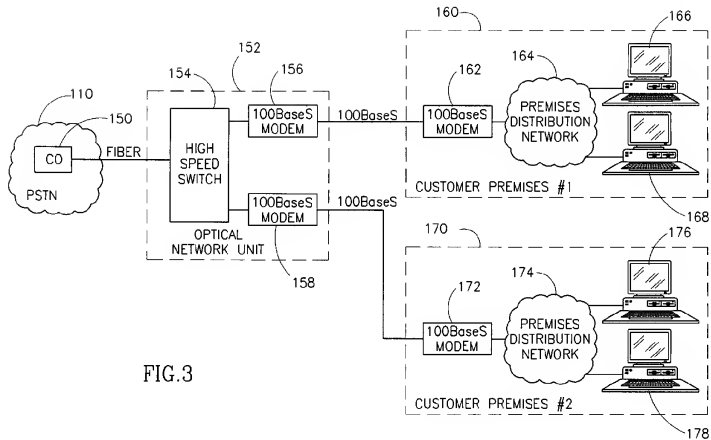


FIG. 3

Applicant believes that the switch of Rubinstain serves only to route packets from the various premises to the central office based upon the following disclosures:

“There is provided in accordance with the present invention a point to point facility transport system for the transport of 100BaseTX Ethernet frame data over N copper wire pairs **connecting a central office facility to a customer premise comprising N downstream transmission paths for transporting 100BaseTX Ethernet frame data transmitted from the central office facility destined to the customer premise, N upstream transmission paths for transporting 100BaseTX Ethernet frame data transmitted from the customer premise 60 destined to the central office facility, first modem means located at the central office facility and coupled to one end of the N downstream transmission paths and one end of the N upstream transmission paths, second modem means located at the customer premises and coupled to the other end of the N downstream transmission paths and the other end of the N upstream transmission paths, wherein the first**

modem means and the second modem means are operative to place onto and receive from the N copper wire pairs, data frames encapsulating the Ethernet frame data and wherein N is a positive integer in the range of one to four.”

(Rubinstain Col. 4 line 51 to Col. 5, line 3 (emphasis added)).

“The downstream transmission path utilizes quadrature amplitude modulation (QAM) to transport the Ethernet frame data from the central office facility to the customer premise. The upstream transmission path utilizes quadrature amplitude modulation (QAM) to transport the Ethernet frame data from the customer premise to the central office facility.”

(Rubinstain Col. 5 lines 5-10)

See also Rubinstain:

Col. 5 lines 32-59;

Col. 5 line 60 to Col. 6 line 11

Claims 6-11

In summary, each of the above portions of the Rubinstain disclosure recites packet routing between a central office and a user premises. Rubinstain is silent regarding the possibility that packets could be routed other than through the central office. Accordingly, Applicant respectfully submits that the conclusion of the Office Action that, “*The optical network unit also comprises a high speed switch for routing traffic between customer premises #1 and customer premises #2 without accessing the PSTN (without routing the high-speed packetized information through a central office).*” is incorrect. Therefore, the combination of references relied upon in the Office Action to reject claims 47-65 and 67-69 does not teach or suggest each element of the rejected claims.

### ***Claim 66***

Claim 66 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nguyen, in view of Rubinstain, and further in view of Saito. These rejections are respectfully traversed, because the final Office Action has not demonstrated that the cited combination either teaches or suggests each element of any rejected claim. Claim 66 depends from claim 62 and is allowable for at least the reasons set forth above with respect to claim 62.

### **Conclusion**

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This paper constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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